United Nations ST/IC/2018/25

Secretariat

13 September 2018

Information circular*

To: Members of the staff at Headquarters

From: The Assistant Secretary-General for Human Resources Management

Subject: **G-4 visas for domestic partners**

1. The purpose of the present circular is to inform staff members with domestic partners who hold a derivative G-4 non-immigrant visa of a diplomatic note received from the United States Mission to the United Nations concerning the definition of "family members". The text of the diplomatic note, dated 12 July 2018, is set out in annex I to the present circular.[1]

2. The diplomatic note informs the United Nations Secretariat and funds and programmes of policy changes with respect to the conditions for establishing the eligibility of domestic partners for a G-4 visa.

3. Since 2009, the United Nations has been informed that the Department of State does not issue a G-4 visa for opposite-sex domestic partners.

4. The diplomatic note informs the United Nations that the Department of State will not issue a G-4 visa for same-sex domestic partners. As of 1 October 2018, same-sex domestic partners accompanying or seeking to join newly arrived United Nations officials must provide proof of marriage to be eligible for a G-4 visa or to seek a change into such status.

5. Currently accredited same-sex domestic partners of United Nations officials who wish to maintain their G-4 visa must be ready to submit proof of marriage by 31 December 2018. After 31 December 2018, they will be expected to leave the United States within 30 days unless they submit the required proof of marriage or have obtained separate authorization to remain in the country through a change of non-immigrant status.

6. In addition, on or after 1 October 2018, all same-sex domestic partners applying for visa renewal in the United States must be married to qualify for a G-4 visa.

7. All United Nations officials are informed that, when notifying the United States Mission to the United Nations of new spouses for accreditation, the United Nations is requested to submit appropriate documentation that the couple is married.

* The present circular will be in effect until further notice.

[1] The previous diplomatic notes referred to in the text of the diplomatic note are set out in annexes II and III of the present circular.

18-15302 (E) 170918

Please recycle

Moreover, to be eligible for a G-4 visa, the spouse of a United Nations official must not be a member of some other household and must reside regularly in the household of the principal.

8. Staff members should contact their human resources partner if they have any questions about the present information circular or the content of the diplomatic note.

Annex I

Diplomatic note dated 12 July 2018 from the United States Mission to the United Nations addressed to the United Nations Secretariat and to the funds and programmes

The United States Mission to the United Nations presents its compliments to the United Nations Secretariat and to the Funds and Programs and has the honor to refer to circular diplomatic notes numbers HC-144-(S)-09 of November 24, 2009 and HC-60-02 of November 13, 2002 concerning the definition of family members.

As recalled in the referenced notes, it has long been an accepted principle of international law that the privileges and immunities to which members of the diplomatic community are entitled extend, to a certain degree, to the members of their families forming part of their households. The Vienna Convention on Diplomatic Relations (Article 37(1)) specifies the privileges and immunities which shall be accorded such "members of the family of a diplomatic agent forming part of [the] household" but does not provide a definition of the term "members of the family" for purposes of the Convention. The drafters of the Convention recognized that the concept of "family" differs among the societies of the world and left the matter to be resolved according to the standards of the respective receiving States.

Since the issuance of circular diplomatic note HC-144-(S)-09, the Supreme Court of the United States has ruled that U.S. domestic laws banning recognition of same-sex marriage are unlawful under the United States Constitution. Same-sex spouses of U.S. diplomats now enjoy the same rights and benefits of opposite-sex spouses.

Consequently, the United Nations is informed that, consistent with changes to Department of State policy, the Department will only be able to accept the accreditation and registration of spouses of newly arrived officials, both same-sex and opposite-sex, as members of the family of United Nations officials as of October 1, 2018. Further, consistent with internal Department of State policy changes, partners accompanying United Nations officials or seeking to join the same must be married in order to be eligible for the derivative G-4 nonimmigrant visa or to seek a change into such status beginning October 1, 2018.

For all currently accredited same-sex domestic partners of United Nations officials who wish to maintain their acceptance of accreditation and derivative G-4 nonimmigrant visa status, the United Nations is requested to submit appropriate documentation to the United States Mission to the United Nations, no later than December 31, 2018, that the couple has legally married. After December 31, 2018, unless such individuals are able to obtain separate authorization to remain in the United States through a change of nonimmigrant status with the United States Citizenship and Immigration Services (USCIS), they will generally be expected to depart the country within thirty days. However, on or after October 1, 2018, partners applying for a visa renewal in the United States must be married in order to qualify for a G-4 nonimmigrant visa.

The requirements for eligibility of acceptance of accreditation as a spouse are the same for all spousal relationships and include the following: a spouse must not be a member of some other household and must reside regularly in the household of the principal. Same-sex spouses of officials of the United Nations will be treated the same as opposite-sex spouses when applying for a G-4 visa and for other immigration purposes. When notifying the United States Mission to the United Nations of new spouses of United Nations officials for accreditation, the United Nations is requested to submit appropriate documentation that the couple is married.

The United States Mission to the United Nations avails itself of this opportunity to renew to the United Nations Secretariat the assurances of its highest consideration.

Annex II

Diplomatic note dated 24 November 2009 from the United States Mission to the United Nations addressed to the United Nations Secretariat and to the funds and programmes

The United States Mission to the United Nations presents its compliments to the United Nations Secretariat and to the Funds and Programs and has the honor to refer to circular diplomatic note number HC-60-02 (attached) of November 13, 2002 concerning the definition of family members.

As indicated in the referenced note, it has long been an accepted principle of international law that the privileges and immunities to which members of the diplomatic community are entitled extend, to a certain degree, to the members of their families forming part of their households. The Vienna Convention on Diplomatic Relations (Article 37(1)) specifies the privileges and immunities which shall be accorded such "members of the family of a diplomatic agent forming part of [the] household" but does not provide a definition of the term "members of the family" for the purposes of the Convention. The drafters of the Convention recognized that the concept of "family" differs among the societies of the world and left the matter to be resolved according to the standards of the respective receiving States.

The United Nations is informed that, in addition to the categories of individuals previously accepted as family members, the United States Department of State has determined that the definition of "family" forming part of the household of a member of the diplomatic community may include same-sex domestic partners ("domestic partners") for the purposes of the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations in the United States. In accordance with guidance from the White House, the Department of State is not in a position to accept the accreditation and registration of opposite-sex domestic partners as members of the family.

In order to be eligible for acceptance as a domestic partner of an official of the United Nations, a domestic partner must not be a member of some other household, must reside regularly in the household of the principal, and must be recognized by the United Nations as a family member forming part of the household of the principal, as demonstrated by eligibility for United Nations rights and benefits. Therefore, when notifying the United States Mission of domestic partners of its officials, the United Nations is requested to submit appropriate documentation that it recognizes the domestic partner relationship, which could include evidence that it provided the domestic partner with documentation to that effect, or with travel or other allowances. Domestic partners of officials of the United Nations accepted by the United States Mission or the Department of State should be eligible for G-4 visas.

In addition, the Department of State intends to pursue the legal measures necessary to enable the United States to offer dependent employment to domestic partners of United Nations officials in the context of the dependent employment arrangement currently in place. The United Nations Secretariat will be advised of any such developments as soon as it is possible to do so.

The attention of the United Nations Secretariat is also drawn to the applicable provisions of international law in respect of the termination of status. Whenever any person who has been accorded status as a member of the family in the United States (other than a student attending boarding school or college) ceases to reside with the principal, such person immediately ceases to be a member of the family. Accordingly, all privileges and immunities, if any, to which such person previously had been

entitled in the United States would terminate thirty days thereafter unless in a particular case a shorter time has been specified by the United States Mission.

The United Nations Secretariat is advised that until the Department of State publications are revised to incorporate "domestic partners" as members of the family of a member of the United Nations diplomatic community forming part of the household, references to family members in the context of privileges and immunities and related matters should be understood to include domestic partners as described herein. It is emphasized that the standard set forth in this note is to define members of the family for officials of the United Nations and is without prejudice to other definitions of family for other purposes which have an independent basis in international agreements or United States domestic law.

The United States Mission to the United Nations avails itself of this opportunity to renew to the United Nations Secretariat and the Funds and Programs the assurances of its highest consideration.

Annex III

Diplomatic note dated 13 November 2002 from the United States Mission to the United Nations addressed to the permanent missions to the United Nations

The United States Mission to the United Nations presents its compliments to the Permanent Missions to the United Nations and has the honor to advise them of the definition which applies to the term "family" as that term is used for the purpose of extension of diplomatic privileges and immunities by the host country. This circular note replaces the United States Mission's note of March 16, 1987 on the same subject.

For the purposes of the application in the United States of paragraph 37 of the Vienna Convention on Diplomatic Relations, operative for Permanent Missions to the United Nations through Section 15 of the Headquarters Agreement between the United States and the United Nations, "family...forming part of...household" means the spouse of the member of the Mission and his or her unmarried children under 21 years of age, who are not members of some other household, and who reside exclusively in the Mission member's household. Additionally, the term "family" includes the Mission member's children under 23 years of age, provided that such children are attending an institution of higher learning on a full-time basis.

Other persons who are not members of some other household, who reside exclusively in the Mission member's household, and who are recognized by the sending state as members of the family forming part of that household, may be considered "family" for the purposes of the Vienna Convention under very exceptional circumstances and with the expressed approval of the United States Government. In such cases, a formal request for consideration by the United States Department of State must be submitted to the United States Mission. The request must include full justification for the requested exception.

The attention of the Permanent Missions is also drawn to the applicable provisions of international law in respect of termination status of family members. Whenever any person who has been accorded "family" status for the purposes of diplomatic privileges and immunities in the United States ceases to reside with the principal Mission member, marries, or otherwise ceases to be part of the Mission member's household, such person immediately ceases to be a member of the "family" within the meaning of international law and the Vienna Convention on Diplomatic Relations. Accordingly, all privileges and immunities to which such person had been entitled in the United States would terminate.

It is emphasized that the standard set forth in this note is solely to define members of the family pursuant to the terms of the Vienna Convention on Diplomatic Relations with regard to the extension of diplomatic privileges and immunities. It is without prejudice to other definitions of family for other purposes such as the continued eligibility for "G" visa status, which have an independent basis in international agreements or United States domestic law.

The United States Mission to the United Nations avails itself of this opportunity to renew to the Permanent Missions to the United Nations the assurances of its highest consideration.